



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Cutting Edge Formulations, Inc. )

Opposer, )

v. )

Olympus Seed Treatment Formulator, Inc. )

Applicant. )

**Opposition No.** \_\_\_\_\_

Application Serial No. 76/711,907

**AVENGER**

**Attorney's Reference: 78098-346995**

**NOTICE OF OPPOSITION**

In the matter of the application for registration of the trademark AVENGER filed by Olympus Seed Treatment Formulator, Inc. ("Applicant"), as shown in Application Serial No. 76/711,907 published for opposition in the *Official Gazette* of December 4, 2012.

Cutting Edge Formulations, Inc. ("Opposer"), a Delaware corporation with its address at 3057 Summer Oak Place, Buford, Georgia, 30518-0401, believes that it will be damaged by registration of the mark shown in said Application Serial No. 76/711,907, and hereby opposes the same:

As grounds for opposition it is alleged that:

1. Opposer, itself and through its subsidiaries and predecessors in interest, is now, and for many years has been, engaged in the business of manufacturing and marketing, among other things, the goods bug and insect killers; bed bug killer; fertilizers; weed killers; herbicides.
2. Opposer has used the trademark AVENGER in connection with and to identify its goods as described in Paragraph 1.

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3. Opposer has used the trademark NATURE'S AVENGER in connection with and to identify its goods as described in Paragraph 1.

4. Opposer is the owner of U.S. Trademark Registration No. 3,380,255 issued



February 12, 2008 for the mark covering herbicides for domestic use.

5. Opposer is the owner of U.S. Trademark Registration No. 3,241,667 issued May 15, 2007 for the mark NATURE'S AVENGER covering herbicides.

6. Opposer is the owner of U.S. Trademark Application Serial No. 85/795,443 filed



December 5, 2012 for the mark as used to identify "weed killers; organic herbicides." Use of this mark since February 2009 is alleged.

7. Opposer is the owner of U.S. Trademark Application Serial No. 85/795,489 filed



December 5, 2012 for the mark as used to identify "organic fertilizers; bug and insect killers; bed bug killer." Use of this mark since February 2009 is alleged.

8. Opposer is the owner of U.S. Trademark Application Serial No. 85/795,522 filed



December 5, 2012 for the mark as used to identify "herbicide and weed killer for agricultural and domestic use." Use of this mark since February 2009 is alleged.

9. Applicant's Application Serial No. 76/711,907 has been cited by the U.S. Patent and Trademark Office as a potential bar to registration of Opposer's applications set forth in Paragraphs 6, 7 and 8.
10. The applicant has not used the trademark AVENGER in the United States on or in connection with the goods listed in its application.
11. Applicant did not use the trademark AVENGER in the United States for the goods described in its application prior to February 2009.
12. Applicant did not use the trademark in the United States for the goods described in its application prior to July 9, 2012.
13. Opposer has used the term AVENGER as a trademark or as a part of a trademark in the United States since prior to any use of the mark AVENGER in the United States that may be alleged or relied upon by applicant.
14. The goods for which applicant seeks to register the mark AVENGER, i.e., "insecticide for use on agricultural plants, namely, crops" are related to goods offered by Opposer under its various marks incorporating the term AVENGER.
15. The trademark AVENGER sought to be registered by the applicant is substantially similar to opposer's trademarks incorporating the term AVENGER.
16. Consumers are likely to be confused and to mistakenly believe that applicant's products offered under its AVENGER mark either emanate from or are licensed by, sponsored by, or associated with opposer, or that they incorporate opposer's products.

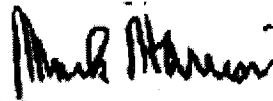
17. If the applicant were permitted to use and register its mark for its goods as specified in its application, confusion among consumers resulting in damage and injury to opposer would be caused by virtue of the similarity between applicant's trademark and opposer's trademark and trade name, and the related nature of the goods covered by those marks. Any defect, objection or fault found with applicant's goods would reflect upon, seriously injure, and dilute the reputation and value that opposer has established under its trademark and trade name.

**WHEREFORE**, Opposer prays that Application Serial No. 76/711,907 be rejected, that no registration be issued thereon to applicant, and that this opposition be sustained in favor of the Opposer.

This Notice of Opposition is submitted together with the statutory filing fee of \$300.00 (Class 5). Should any additional fee be required, please charge the same to our Account No. 22-0261 and notify the undersigned accordingly.

Opposer appoints Mark B. Harrison, Rebecca Liebowitz, Jacqueline Patt, Michael Hall, Jeremy Klass and Scott Oslick along with the law firm of Venable LLP, P.O. Box 34385, Washington, D.C. 20043-9998 to transact all business on its behalf in connection with this Opposition.

Respectfully submitted,



Date: April 3, 2013


By: \_\_\_\_\_

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **NOTICE OF OPPOSITION** was served by U.S. Mail, first class, postage prepaid, on this 3<sup>rd</sup> day of April, 2013 on the Applicant's attorney of record at the address listed in the current U.S. Trademark Office Records as follows:

GEFFREY D. RAINBOLT  
Dale & Eke, P.C.  
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INDIANAPOLIS, INDIANA 46240-2100



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**Mark Harrison**